

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 479

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO CONTROLLED SUBSTANCES; EXPANDING THE CRIME OF  
POSSESSION OF A CONTROLLED SUBSTANCE TO INCLUDE CONSUMPTION OF  
THE CONTROLLED SUBSTANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-31-23 NMSA 1978 (being Laws 1972,  
Chapter 84, Section 23, as amended) is amended to read:

"30-31-23. CONTROLLED SUBSTANCES--POSSESSION  
PROHIBITED.--

A. It is unlawful for [~~any~~] a person intentionally  
to possess a controlled substance unless the substance was  
obtained pursuant to a valid prescription or order of a  
practitioner while acting in the course of [~~his~~] professional  
practice or except as otherwise authorized by the Controlled  
Substances Act. It is unlawful for [~~any~~] a person

.162883.1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 intentionally to possess a controlled substance analog.

2 B. A blood, urine or other medical test that  
3 indicates that a person has consumed a controlled substance or  
4 a controlled substance analog is prima facie evidence of  
5 possession of that substance or analog in the county where the  
6 test was obtained.

7 [~~B. Any~~] C. A person who violates this section  
8 with respect to:

9 (1) one ounce or less of marijuana is, for the  
10 first offense, guilty of a petty misdemeanor and shall be  
11 punished by a fine of not less than fifty dollars (\$50.00) or  
12 more than one hundred dollars (\$100) and by imprisonment for  
13 not more than fifteen days, and, for the second and subsequent  
14 offenses, guilty of a misdemeanor and shall be punished by a  
15 fine of not less than one hundred dollars (\$100) or more than  
16 one thousand dollars (\$1,000) or by imprisonment for a definite  
17 term less than one year, or both;

18 (2) more than one ounce and less than eight  
19 ounces of marijuana is guilty of a misdemeanor and shall be  
20 punished by a fine of not less than one hundred dollars (\$100)  
21 or more than one thousand dollars (\$1,000) or by imprisonment  
22 for a definite term less than one year, or both; or

23 (3) eight ounces or more of marijuana is  
24 guilty of a fourth degree felony and shall be sentenced  
25 pursuant to the provisions of Section 31-18-15 NMSA 1978.

.162883.1

underscoring material = new  
[bracketed material] = delete

1           ~~[G.]~~ D. Except for those substances listed in  
2 Subsection ~~[D]~~ E of this section, ~~[any]~~ a person who violates  
3 this section with respect to any amount of any controlled  
4 substance enumerated in Schedule I, II, III or IV or a  
5 controlled substance analog of a substance enumerated in  
6 Schedule I, II, III or IV is guilty of a misdemeanor and shall  
7 be punished by a fine of not less than five hundred dollars  
8 (\$500) or more than one thousand dollars (\$1,000) or by  
9 imprisonment for a definite term less than one year, or both.

10           ~~[D.—Any]~~ E. A person who violates this section  
11 with respect to phencyclidine as enumerated in Schedule III or  
12 a controlled substance analog of phencyclidine;  
13 methamphetamine, its salts, isomers or salts of isomers as  
14 enumerated in Schedule II or a controlled substance analog of  
15 methamphetamine, its salts, isomers or salts of isomers;  
16 flunitrazepam, its salts, isomers or salts of isomers as  
17 enumerated in Schedule I or a controlled substance analog of  
18 flunitrazepam, including naturally occurring metabolites, its  
19 salts, isomers or salts of isomers; gamma hydroxybutyric acid  
20 and any chemical compound that is metabolically converted to  
21 gamma hydroxybutyric acid, its salts, isomers or salts of  
22 isomers as enumerated in Schedule I or a controlled substance  
23 analog of gamma hydroxybutyric acid, its salts, isomers or  
24 salts of isomers; gamma butyrolactone and any chemical compound  
25 that is metabolically converted to gamma hydroxybutyric acid,

.162883.1

underscored material = new  
[bracketed material] = delete

1 its salts, isomers or salts of isomers as enumerated in  
2 Schedule I or a controlled substance analog of gamma  
3 butyrolactone, its salts, isomers or salts of isomers; 1-4  
4 butane diol and any chemical compound that is metabolically  
5 converted to gamma hydroxybutyric acid, its salts, isomers or  
6 salts of isomers as enumerated in Schedule I or a controlled  
7 substance analog of 1-4 butane diol, its salts, isomers or  
8 salts of isomers; or a narcotic drug enumerated in Schedule I  
9 or II or a controlled substance analog of a narcotic drug  
10 enumerated in Schedule I or II is guilty of a fourth degree  
11 felony and shall be sentenced pursuant to the provisions of  
12 Section 31-18-15 NMSA 1978.

13 ~~[E.—Any]~~ F. A person who violates Subsection A of  
14 this section while within a posted drug-free school zone,  
15 excluding private property residentially zoned or used  
16 primarily as a residence and excluding ~~[any]~~ a person in or on  
17 a motor vehicle in transit through the posted drug-free school  
18 zone, with respect to:

19 (1) one ounce or less of marijuana is, for the  
20 first offense, guilty of a misdemeanor and shall be punished by  
21 a fine of not less than one hundred dollars (\$100) or more than  
22 one thousand dollars (\$1,000) or by imprisonment for a definite  
23 term less than one year, or both, and for the second or  
24 subsequent offense, is guilty of a fourth degree felony and  
25 shall be sentenced pursuant to the provisions of Section

.162883.1

underscoring material = new  
[bracketed material] = delete

1 31-18-15 NMSA 1978;

2 (2) more than one ounce and less than eight  
3 ounces of marijuana is guilty of a fourth degree felony and  
4 shall be sentenced pursuant to the provisions of Section  
5 31-18-15 NMSA 1978;

6 (3) eight ounces or more of marijuana is  
7 guilty of a third degree felony and shall be sentenced pursuant  
8 to the provisions of Section 31-18-15 NMSA 1978;

9 (4) any amount of any other controlled  
10 substance enumerated in Schedule I, II, III or IV or a  
11 controlled substance analog of a substance enumerated in  
12 Schedule I, II, III or IV, except phencyclidine as enumerated  
13 in Schedule III, a narcotic drug enumerated in Schedule I or II  
14 or a controlled substance analog of a narcotic drug enumerated  
15 in Schedule I or II, is guilty of a fourth degree felony and  
16 shall be sentenced pursuant to the provisions of Section  
17 31-18-15 NMSA 1978; and

18 (5) phencyclidine as enumerated in Schedule  
19 III, a narcotic drug enumerated in Schedule I or II, a  
20 controlled substance analog of phencyclidine or a controlled  
21 substance analog of a narcotic drug enumerated in Schedule I or  
22 II is guilty of a third degree felony and shall be sentenced  
23 pursuant to the provisions of Section 31-18-15 NMSA 1978."

24 Section 2. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2007.

.162883.1